

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-185850

DATE: May 13, 1976

MATTER OF: William D. Hutchinson

60874

DIGEST:

98946

Where no errors of fact or law are shown to have existed in prior decision, which held protest untimely under GAO's Bid Protest Procedures, such decision is affirmed upon reconsideration.

Mr. William D. Hutchinson has requested reconsideration of our decision of February 20, 1976, in which we held untimely his protest against the cancellation of solicitation No. F04611-76-R-0010, issued by the Air Force Flight Test Center, Edwards Air Force Base, and the subsequent award of the contract to another governmental agency, Picatinny Arsenal.

Our decision was based on the fact that by letter of December 11, 1975, the contracting officer advised Hutchinson that proposals had been received from two governmental agencies and that no competitive evaluation would be made between the offers of the governmental agencies and the previously solicited commercial concerns. As the protest was not filed with our Office until February 2, 1976, the protest was untimely under § 20.2(b)(2) of our Bid Protest Procedures (40 Fed. Reg. 17979 (1975)), which requires that protests be filed with our Office not later than 10 days after the basis of the protest is known or should have been known.

The basis for the request for reconsideration by Hutchinson is that while he had suspicions of what was occurring, he had no concrete information until he was advised on January 22, 1976, by a Small Business Administration official, that award had been made to Picatinny Arsenal.

This information does not alter our previous position that the protest was untimely filed. What is being protested is the cancellation of the original solicitation and the failure of

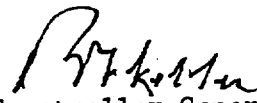
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the procuring activity to evaluate Hutchinson's proposal. The facts necessary to file the protest were conveyed by the December 11, 1975, letter from the contracting officer.

Further, our Office has been furnished a copy of a letter written by the protester to a Member of Congress on November 17, 1975, which shows that Hutchinson was aware of the solicitation cancellation and the fact that "the contract is to be awarded now to the Picatinny Arsenal." Therefore, it appears that the protester was aware of the basis of his protest even prior to the December 11 letter.

As no errors of law or fact have been shown in our prior decision, it is affirmed.

Deputy

  
Comptroller General  
of the United States